REMARKS

The Office Action mailed July 2, 2008 has been reviewed and carefully considered. Entry of this Amendment and reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested

Claims 1-22 are pending and stand rejected.

Claims 1, 4, 6, 8, 11 and 14 have been amended. Claim 2, 3, 5, 12, and 13 has been cancelled.

Claims 8-10 are objected to as being indefinite for the term "steps of" within an apparatus claim.

Applicant respectfully disagrees with and explicitly traverses the objection to the claims. However, in order to advance the prosecution of this matter, the claims have been amended in accordance with the Examiner's suggested language.

Claims 1-3 and 11-13 stand rejected under 35 USC 102(b) as being anticipated by Hetzler(USP no. 5,954,820). Claims 1-3 and 11-13 stand rejected under 35 USC 102(b) as being anticipated by Veitchev (USP no. 6,590,730). Claims 1-22 stand rejected under 35 USC 102(b) as being anticipated by Juso (USP no. 5,799,197).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, in order to advance the prosecution of the instant application, the independent claims have been amended to recite the invention in better form. More specifically, the claims have been amended further recite a plurality of buffers for reading and writing data, the buffer being chosen proportional to a maximum bit rate associated with a corresponding streaming data, the monitoring of the filling and emptying of the buffers and the adjustment of the start and stop times of a disk wherein the adjusting includes at least a time based reordering of one of a refilling and emptying of each of said plurality of buffers to remove gaps between filling the memory buffers. No new matter has been added. Support for the amendment may be found at least in the cancelled claims and on page 6, lines 39-30 and page 8, lines 9-12.

Hetzler discloses a method for managing power in a portable computer using past access history and a prediction of future user demands to determine power-saving mode entry and exit conditions. Hetzler discloses that a access frequency is measured indirectly from keyboard and/or pointing device activity and a current access frequency is compared to a previously calculated and continuously updated threshold frequency. During operation the power-save mode is entered when the current access frequency falls below the threshold frequency.

Hetzler fails to provide any teaching regarding monitoring the filling of data buffers by corresponding data streams or that the data buffers are proportional to a maximum bit rate of corresponding data stream.

Veltchev discloses a method for managing the modes of a hard disk drive to extend battery life by reading a block of data from the disk and storing the block in a buffer while the disk is spinning. After the buffer is filled, the disk is spun down and while the block is being played the amount of the block left to be played is monitored. When the amount of data within the block is below a low threshold level, the disk is transitioned from the power saving mode back to a spinning mode so that data can be read from the disk before the block is finished being played from the buffer. Veltchev further discloses the monitoring of a voltage level to keep the disk in a spinning state when the voltage level is below a selected level to prevent the disk from being spun down.

However, Veltchev fails to disclose multiple buffers that are sized proportional to a corresponding data stream or adjusting the scheduling time of the stop and start of the disk by including at least a time based reordering of one of a refilling and emptying of each of said plurality of buffers to remove gaps between filling said memory buffers.

Juso discloses a method for controlling the reading operation from a recording medium controlled based on an amount of data in memory. Juso discloses that when data in a memory includes full capacity, the power to components of a disk are temporarily turned off and temporarily stopping data reading from a disk. Juso disclose that reading

from the disk and writing to the memory resumes when power is restored before the memory is completely read out.

However, Juno fails to disclose multiple buffers for reading corresponding data streams or that the buffers are selected or adjusting the scheduling time of the stop and start of the disk by including at least a time based reordering of one of a refilling and emptying of each of said plurality of buffers to remove gaps between filling said memory buffers.

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference.

None of the references cited can be said to anticipate the subject matter recited in the independent claims, as the references fail to expressly or inherently describe each and every element recited in the independent claim.

For the amendments made to the claims, applicant submits that the reason for the rejection has been overcome and respectfully requests that the rejection be withdrawn.

With regard to the rejection of the remaining claims, these claims ultimately depend from the independent claims and, thus, the remaining dependent claims are also allowable by virtue of their dependence from an allowable base claim, without arguing the merits of each claim individually.

In addition, the Office Action rejected dependent claims 8-10 as being inherent within the references as mathematical algorithms are considered inherent.

However, applicant would note that none of the references refer to multiple buffers or provide any suggesting of using multiple buffers so the subject matter recited in claims 8-10 cannot be inherent within the teaching of the references as none of the references have a need for performing a reordering of the filling of buffers, as is recited in the claims.

Hence, one skilled in the art would not consider any reordering of multiple buffers from the teachings of any of the references. Even if it could be said that multiple buffers were an feature that one skilled in the art would understand, nowhere in the references

can it be found that the algorithms described or the reordering of the buffers would be an element that one skilled in the art would find inherent in the teachings of any of the references. For example, if one skilled in the art could expand the single buffer described in each reference to a plurality of buffers, these multiple buffers would be filled in the order they appear in the single buffer without consideration of reordering them to adjust the disk schedule, as is recited in the claims.

Accordingly, applicant submits that the assertion that the algorithms recited in the clams are inherent is incorrect as none of the references provide any teaching that would enable one skilled in the art to consider reordering the buffers in accordance with the logical arguments, presented in algorithmic form, found in the claims.

For all the foregoing reasons, it is respectfully submitted that all the claims are in allowable form and the issuance of a Notice of Allowance is respectfully requested.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at the telephone given below.

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,

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